

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered June 14, 2006.

(Deleted material is struck through and new material is underscored.)

Supreme Court Rules 756 and 766 are amended, effective immediately, as follows:

Amended Rule 756

Rule 756. Registration and Fees

(a) Annual Registration Required. Except as hereinafter provided, every attorney admitted to practice law in this ~~S~~state shall register and pay an annual registration fee to the Commission on or before the first day of January. Until further order of the court, the following schedule shall apply:

(1) No registration fee is required of an attorney admitted to the bar less than one year before the first day of January for which the registration fee is due; an attorney admitted to the bar for more than one year but less than three years before the first day of January for which the registration fee is due shall pay an annual registration fee of \$90; an attorney admitted to the bar for more than three years before the first day of January for which the registration fee is due shall pay an annual registration fee of \$239, out of which \$7 shall be remitted to the Lawyers' Assistance Program Fund, \$42 shall be remitted to the Lawyers Trust Fund, and \$10 shall be remitted to the Supreme Court Commission on Professionalism. For purposes of this rule, the time shall be computed from the date of an attorney's initial admission to practice in any jurisdiction in the United States.

(2) An attorney in the Armed Forces of the United States shall be

exempt from paying a registration fee until the first day of January following discharge.

(3) An attorney who has reached the age of 75 years shall be excused from the further payment of registration fees.

(4) No registration fee is required of any attorney during the period he or she may be serving in the office of justice, judge, associate judge or magistrate of a court of the United States of America or the State of Illinois or the office of judicial law clerk, administrative assistant, secretary or assistant secretary to such a justice, judge, associate judge or magistrate, or during any period in which he or she is receiving a retirement annuity pursuant to Title 28, Chapter 17 of the United States Code or Chapter 40, Act 5, Article 18 of the Illinois Compiled Statutes.

(5) An attorney may advise the Administrator in writing that he or she desires to assume inactive status and, thereafter, register as an inactive status attorney. The annual registration fee for an inactive status attorney shall be \$90. Upon such registration, the attorney shall be placed upon inactive status and shall no longer be eligible to practice law or hold himself or herself out as being authorized to practice law in this State. An attorney who is on the master roll as an inactive status attorney may advise the Administrator in writing that he or she desires to resume the practice of law, and thereafter register as active upon payment of the registration fee required under this rule and submission of verification from the Director of MCLE that he or she has complied with MCLE requirements as set forth in Rule 790 *et seq.* If the attorney returns from inactive status after having paid the inactive status fee for the year, the attorney shall pay the difference between the inactive status registration fee and the registration fee required under paragraphs (a)(1) through (a)(4) of this rule. Inactive status under this rule does not include inactive disability status as described in Rules 757 and 758. Any lawyer on inactive disability status is not required to pay an annual fee.

(6) An attorney may advise the Administrator in writing that he or she desires to assume retirement status and, thereafter, register as a retired attorney. Upon such registration, the attorney shall be placed upon retirement status and shall no longer be eligible to practice law or hold himself or herself out as being authorized to practice law in this state. The retired attorney is relieved thereafter from the annual obligation to register and pay the registration fee. A retired attorney may advise the Administrator

in writing that he or she desires to register as an active or inactive status lawyer and, thereafter so register upon payment of the fee required for the current year for that registration status, plus the annual registration fee that the attorney would have been required to pay if registered as active for each of the years during which the attorney was on retirement status. If the lawyer seeks to register as active, he or she must also submit, as part of registering, verification from the Director of MCLE of the lawyer's compliance with MCLE requirements as set forth in Rule 790 *et seq.*

(7) An attorney who is on voluntary inactive status pursuant to former Rule 770 who wishes to register for any year after 1999 shall file a petition for restoration under Rule 759. If the petition is granted, the attorney shall advise the Administrator in writing whether he or she wishes to register as active, inactive or retired, and shall pay the fee required for that status for the year in which the restoration order is entered. Any such attorney who petitions for restoration after December 31, 2000, shall pay a sum equal to the annual registration fees that the attorney would have been required to pay for each full year after 1999 during which the attorney remained on Rule 770 inactive status without payment of a fee.

(8) Upon written application and for good cause shown, the Administrator may excuse the payment of any registration fee in any case in which payment thereof will cause undue hardship to the attorney.

(b) The Master Roll. The Administrator shall prepare a master roll of attorneys consisting of the names of attorneys who have registered and have paid or are exempt from paying the registration fee. The Administrator shall maintain the master roll in a current status. At all times a copy of the master roll shall be on file in the office of the clerk of the court. An attorney who is not listed on the master roll is not entitled to practice law or to hold himself or herself out as authorized to practice law in this State. An attorney listed on the master roll as on inactive or retirement status shall not be entitled to practice law or to hold himself or herself out as authorized to practice law in Illinois.

(c) Notice of Registration. On or before the first day of November of each year the Administrator shall mail to each attorney on the master roll a notice that annual registration is required on or before the first day of January of the following year. It is the responsibility of each attorney on the master roll to notify the Administrator of any change of address within 30 days of the change. Failure to receive the notice from the Administrator

shall not constitute an excuse for failure to register.

(d) Disclosure of Trust Accounts. As part of registering under this rule, each lawyer shall identify any and all accounts maintained by the lawyer during the preceding 12 months to hold property of clients or third persons in the lawyer's possession in connection with a representation, as required under Rule 1.15(a) of the Illinois Rules of Professional Conduct, by providing the account name, account number and financial institution for each account. For each account, the lawyer shall also indicate whether each account is an IOLTA account, as defined in Rule 1.15(d) of the Illinois Rules of Professional Conduct. If a lawyer does not maintain a trust account, the lawyer shall state the reason why no such account is required.

(e) Disclosure of Malpractice Insurance. As part of registering under this rule, each lawyer shall disclose whether the lawyer has malpractice insurance on the date of the registration, and if so, shall disclose the dates of coverage for the policy. The Administrator may conduct random audits to assure the accuracy of information reported. Each lawyer shall maintain, for a period of seven years from the date the coverage is reported, documentation showing the name of the insurer, the policy number, the amount of coverage and the term of the policy, and shall produce such documentation upon the Administrator's request. The requirements of this subsection shall not apply to attorneys serving in the office of justice, judge, associate judge or magistrate as defined in subparagraph (a)(4) of this rule on the date of registration.

(f) Disclosure of Voluntary Pro Bono Service. As part of registering under this rule, each lawyer shall report the approximate amount of his or her *pro bono* legal service and the amount of qualified monetary contributions made during the preceding 12 months.

(1) Pro bono legal service includes the delivery of legal services or the provision of training without charge or expectation of a fee, as defined in the following subparagraphs:

(a) legal services rendered to a person of limited means;

(b) legal services to charitable, religious, civic, community, governmental or educational organizations in matters designed to address the needs of persons of limited means;

(c) legal services to charitable, religious, civic, or community organizations in matters in furtherance of their organizational purposes; and

____ (d) training intended to benefit legal service organizations or lawyers who provide *pro bono* services.

____ In a fee case, a lawyer's billable hours may be deemed *pro bono* when the client and lawyer agree that further services will be provided voluntarily. Legal services for which payment was expected, but is uncollectible, do not qualify as *pro bono* legal service.

____ (2) *Pro bono* legal service to persons of limited means refers not only to those persons whose household incomes are below the federal poverty standard, but also to those persons frequently referred to as the "working poor." Lawyers providing *pro bono* legal service need not undertake an investigation to determine client eligibility. Rather, a good-faith determination by the lawyer of client eligibility is sufficient.

____ (3) Qualified monetary contribution means a financial contribution to an organization as enumerated in subparagraph (1)(b) which provides legal services to persons of limited means or which contributes financial support to such an organization.

____ (4) As part of the lawyer's annual registration fee statement, the report required by subsection (f) shall be made by answering the following questions:

____ (a) Did you, within the past 12 months, provide any *pro bono* legal services as described in subparagraphs (1) through (4) below? ____
Yes ____ No

____ If no, are you prohibited from providing legal services because of your employment? ____ Yes ____ No

____ If yes, identify the approximate number of hours provided in each of the following categories where the service was provided without charge or expectation of a fee:

____ (1) hours of legal services to a person/persons of limited means;

____ (2) hours of legal services to charitable, religious, civic, community, governmental or educational organizations in matters designed to address the needs of persons of limited means;

____ (3) hours of legal services to charitable, religious, civic or community organizations in furtherance of their organizational purposes; and

____ (4) hours providing training intended to benefit legal service

organizations or lawyers who provide *pro bono* services.

Legal services for which payment was expected, but is not collectible, do not qualify as *pro bono* services and should not be included.

(b) Have you made a monetary contribution to an organization which provides legal services to persons of limited means or which contributes financial support to such organization? Yes No

If yes, approximate amount: \$.

(5) Information provided pursuant to this subsection (f) shall be deemed confidential pursuant to the provisions of Rule 766, but the Commission may report such information in the aggregate.

(f) (g) Removal from the Master Roll. On February 1 of each year the Administrator shall remove from the master roll the name of any person who has not registered for that year. A lawyer will be deemed not registered for the year if the lawyer has failed to provide trust account information required by paragraph (d) of this rule or if the lawyer has failed to provide information concerning malpractice coverage required by paragraph (e) or information on voluntary *pro bono* service required by paragraph (f) of this rule. Any person whose name is not on the master roll and who practices law or who holds himself or herself out as being authorized to practice law in this State is engaged in the unauthorized practice of law and may also be held in contempt of the court.

(g) (h) Reinstatement to the Master Roll. An attorney whose name has been removed from the master roll solely for failure to register and pay the registration fee may be reinstated as a matter of course upon registering and paying the registration fee prescribed for the period of his suspension, plus the sum of \$10 per month for each month that such registration fee is delinquent.

(h) (i) No Effect on Disciplinary Proceedings. The provisions of this rule pertaining to registration status shall not bar, limit or stay any disciplinary investigations or proceedings against an attorney.

Adopted January 25, 1973, effective February 1, 1973; amended effective May 17, 1973, April 1, 1974, and February 17, 1977; amended August 9, 1983, effective October 1, 1983; amended April 27, 1984, and June 1, 1984, effective July 1, 1984; amended July 1, 1985, effective

August 1, 1985; amended effective November 1, 1986; amended December 1, 1988, effective December 1, 1988; amended November 20, 1991, effective immediately; amended June 29, 1999, effective November 1, 1999; amended July 6, 2000, effective November 1, 2000; amended July 26, 2001, effective immediately; amended October 4, 2002, effective immediately; amended June 15, 2004, effective October 1, 2004; amended May 23, 2005, effective immediately; amended September 29, 2005, effective immediately; amended June 14, 2006, effective immediately.

Committee Comment

(June 14, 2006)

Paragraph (f) is derived from the findings of the Special Supreme Court Committee on *Pro Bono* Publico Legal Service. The Special Committee recognized the vast unmet and burgeoning legal needs of persons of limited means in Illinois, and the unique role that lawyers play in providing greater access to these critical legal services. Therefore, the rule is established to serve as an annual reminder to the lawyers of Illinois that *pro bono* legal service is an integral part of a lawyer's professionalism.

Through this annual reminder, the primary intended goal is to increase the delivery of legal services directly to persons of limited means in paragraph (f)(1)(a). While the provision of legal services as defined in the other categories is laudable and beneficial to local communities and various organizations, the vast unmet need calls out for increased direct legal services to persons of limited means and support of the organizational infrastructure providing those legal services.

Paragraph (f) is not intended to impose upon lawyers a mandatory duty to provide *pro bono* service but, rather, is intended to impose a mandatory reporting requirement. The rule was drafted to encompass a broad spectrum of *pro bono* legal opportunities, including not only traditional services, but also training and monetary contributions.

Paragraph (f)(4)(b). Certain lawyers are prohibited from performing legal services by constitutional, statutory, rule, or other regulatory prohibitions. Members of the legal profession who fall into these exempt categories are encouraged to make a financial contribution to support the provision of legal services to persons of limited means. They are also

encouraged to participate in training programs for volunteer attorneys.

Amended Rule 766

Rule 766. Confidentiality and Privacy

(a) Public Proceedings. Proceedings under Rules 751 through 780 shall be public with the exception of the following matters, which shall be private and confidential:

- (1) investigations conducted by the Administrator;
- (2) proceedings before the Inquiry Board;
- (3) proceedings pursuant to Rule 753 before the Hearing Board prior to the service of a complaint upon the respondent;
- (4) information pursuant to which a board or the court has issued a protective order;
- (5) deliberations of the Hearing Board, the Review Board and the court;
- (6) proceedings before the Hearing and Review Boards pursuant to Rule 758;
- (7) proceedings pursuant to Rule 760;
- (8) deliberations of the Commission and minutes of Commission meetings;
- (9) deliberations related to a claim submitted under the Client Protection Program; ~~and~~
- (10) information concerning trust accounts provided by lawyers as part of the annual registration pursuant to Rule 756(d); and
- (11) information concerning *pro bono* services and monetary contributions in support of *pro bono* services provided by lawyers as part of the annual registration pursuant to Rule 756(f).

(b) Disclosures of Confidential Information.

(1) *Public Information of Misconduct.* Where there is public information of allegations which, if true, could result in discipline, the Administrator, with the approval of the court or a member thereof, and in the interest of the public and the legal profession, may disclose whether the matter is being investigated.

(2) *Disclosures in the Interests of Justice.* In the interests of justice and on such terms as it deems appropriate the court or a member thereof may authorize the Administrator to produce, disclose, release, inform, report or testify to any information, reports, investigations, documents, evidence or transcripts in the Administrator's possession.

(3) *Referral to Lawyers' Assistance Program.* When an investigation by the Administrator reveals reasonable cause to believe that a respondent is or may be addicted to alcohol or other chemicals, is or may be abusing the use of alcohol or other chemicals, or is or may be experiencing a mental health condition or other problem that is impairing the respondent's ability to practice law, the information giving rise to this belief may be communicated to the Lawyers' Assistance Programs, Inc., or comparable organization designed to assist lawyers with substance abuse or mental health problems.

Adopted March 30, 1973, effective April 1, 1973; amended April 1, 1974; amended October 1, 1976, effective November 15, 1976; amended June 1, 1984, effective July 1, 1984; amended October 13, 1989, effective immediately; amended March 28, 1994, effective immediately; amended November 19, 2004, effective January 1, 2005; amended March 29, 2006, effective immediately; amended June 14, 2006, effective immediately.